

Development Code Amendment: Medical Marijuana Grow Sites, Processors and Dispensaries

Newberg City Council

February 1, 2016

File # DCA-15-002

Proposal: Amend the Newberg Development Code to address medical marijuana grow sites, processors and dispensaries

- **Grow Sites:** Up to 12 mature plants permitted R-1, R-2, R-3 as indoor use only, conditional use all other Districts and Subdistricts (this is more restrictive than what state law allows).
- **Processors:** Permitted in all industrial Districts and Subdistricts.
- **Definitions:** Medical Marijuana grow site and processor.
- **Footnote:** Modifies and deletes Career Schools.
- **Footnote:** Adds a footnote on electrical inspections R-1, R-2, R-3

The proposal is...

- A set of requirements for medical marijuana grow sites and processors which are legal per ORS 475 and HB 3400.

The proposal is not...

- A discussion about whether marijuana should be legal.
- Addressing recreational marijuana.

Background

- SB 1531 Allows medical marijuana grow sites and processors.
- April 2015 City Council approved land use regulations for dispensaries.
- HB 3400 (2015) modified laws in ORS 475. Operational provisions of new laws takes place March 1, 2016.
- City Council Work Session September 8, established Marijuana Subcommittee.

Background

- City Council ordinance banning recreational sales from medical marijuana dispensaries, September 21, 2015.
- City Council initiated Development Code amendment, December 7, 2015.
- Council Subcommittee developed recommendation to Planning Commission, December 9, 2015.
- Planning Commission public hearing January 14, 2016 and recommendation.

Public comments

No public comments have been received on the proposal prior to the public hearing.

Analysis

- Can regulate Place, Time and Manner (ORS 475.300-342; OAR 333-008; HB 3400) for Grow Sites and Processors.
- Limits on number of mature plants – 6 mature per card holder, max 4 card holders.
- Residential zone – 12 mature plants.
- Usable marijuana – grown outdoors 12 pounds, indoors 6 pounds.
- Processor can not be located in area zoned for residential use.

Analysis

- Processor must meet public health and safety standards of OHA.
- No time limit regulations in ORS or OAR's
- No manner limits in ORS or OAR's
- Change to definition for schools – public primary & secondary; private and parochial
- HB 3400 deleted definition for Career School

Subcommittee Recommendation

- **Grow Sites:** Allow up to 12 mature plants in Residential R-1, R-2, R-3 or two patients as indoor operations. Above that the use would be a conditional use in all other zones.
- **Processors:** Processors be allowed in industrial zones and light manufacturing (M-1, M-2, M-3, AI, Springbrook District).
- **Dispensaries:** Remove Career Schools and change definition to adopt the new definition of primary/secondary and private/parochial school.

Planning Commission Recommendation

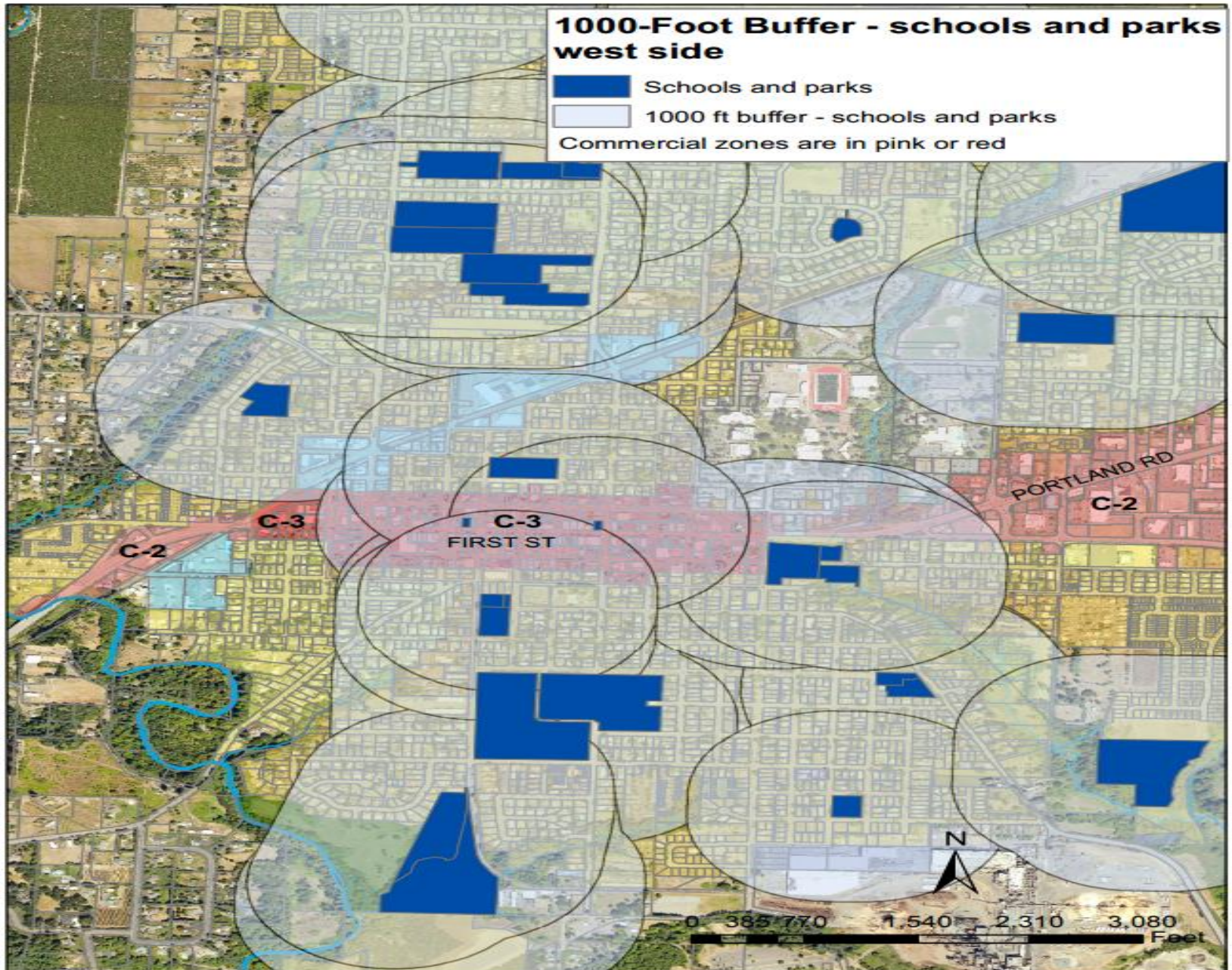
- Add Medical Marijuana Grow Sites as a permitted use for up to twelve mature plants in R-1, R-2 and R-3 districts as indoor operations only.
- Add Medical Marijuana Grow Sites as a conditional use to all other districts and subdistricts.
- Add Medical Marijuana Processors as a permitted use in all industrial districts and subdistricts (M-1, M-2, M-3, M-4, AI and SD/E).

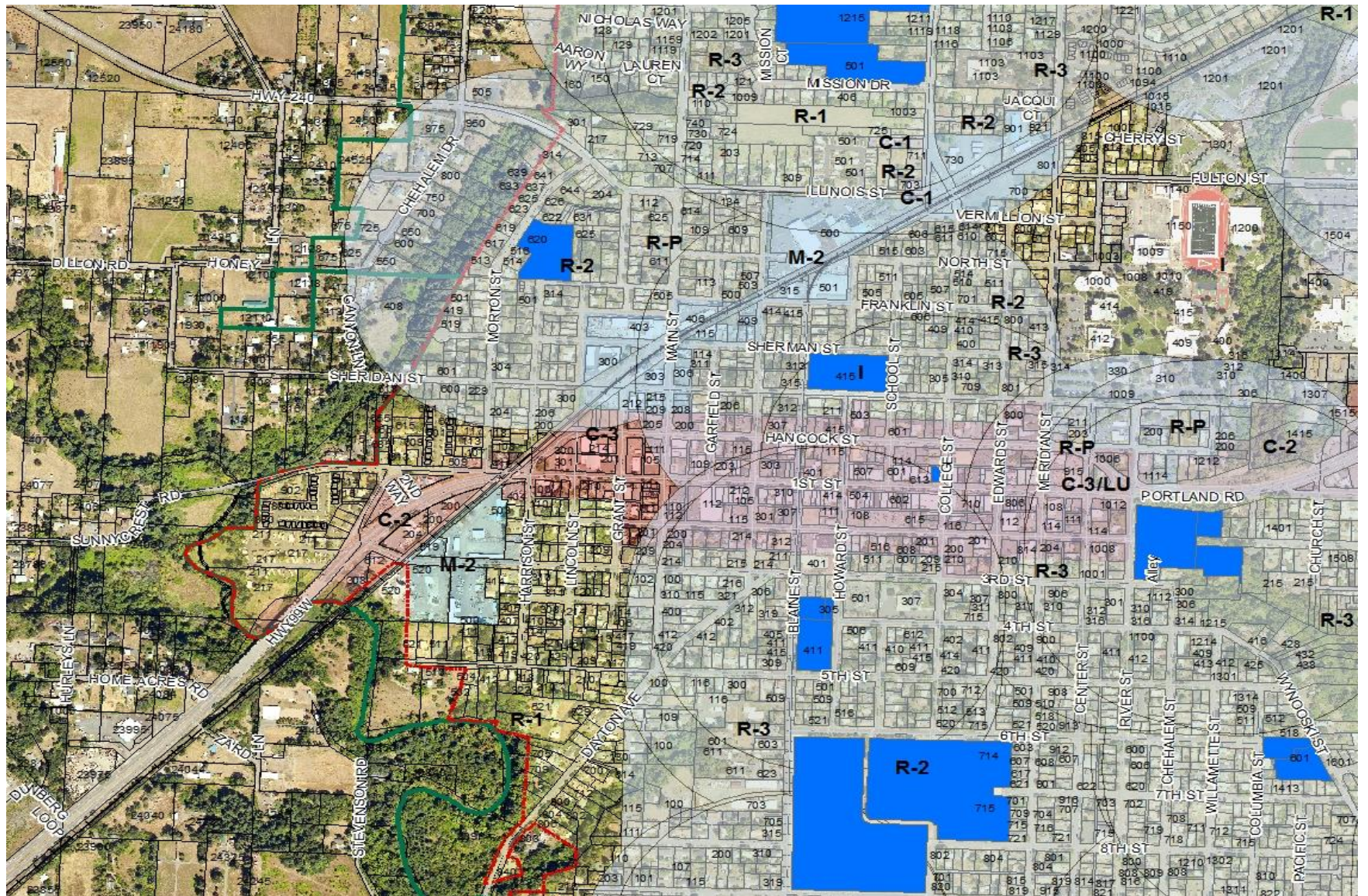
Planning Commission Recommendation

- Delete the definition of Career School.
- Add definitions for Medical Marijuana Grow Site and Medical Marijuana Processor.
- Modify the footnote for Medical Marijuana Dispensaries in the Zoning Use Table to delete “Career School” and modify the public or private primary, elementary, secondary school references to align with new definitions in HB 3400.
- Add a footnote for electrical inspections for grow sites as a permitted use in R-1, R-2 and R-3 zones in the Zoning Use Table.

1000-Foot Buffer - schools and parks west side

- Schools and parks
- 1000 ft buffer - schools and parks
- Commercial zones are in pink or red





Proposed Development Code Amendment

15.05.030 Definitions

- “Medical Marijuana Grow Site” means a location registered under ORS 475.304 where marijuana is produced for use by a registry identification cardholder.”
- “Medical Marijuana Processor” means a medical marijuana processing facility registered by the Oregon Health Authority.”

Proposed Development Code Amendment

Section 2. Newberg Development Code Section 15.305.020 shall be amended as follows:

15.305.020 Zoning use table

See Staff Report Exhibit A,

Section 2. Newberg Development Code Section 15.305.030 is added to read as follows:

Attachment 1 & Attachment 2

Footnotes:

(35) Shall not be located at the same address as a state-registered marijuana grow site, or within 1,000 feet of the real property comprising a public park, a public elementary or secondary school for which attendance is compulsory under ORS 339.020 or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a) ~~public or private primary, elementary, secondary or career school~~. Distance is measured in a straight line in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising an existing public park, public elementary or secondary school or a private or parochial elementary or secondary school ~~private elementary, secondary or career school~~ to the closest point of the premises of a dispensary. The premises consist of the dispensary building, or the portion of the building used for a dispensary. Shall not be located within 1,000 feet of another medical marijuana dispensary. Operating hours are limited to the hours between 9:00 a.m. and 8:00 p.m.

Proposed Development Code Amendment

- (36) Allows up to 12 mature plants or two patients; indoor operations.

Findings

- Citizen involvement/public process goals: Code adoption requires at least 2 public hearings, newspaper notice. Also have a webpage on city website. Approval would be consistent with this goal.
- Economy goal – encourage new and diverse businesses: Provides opportunity for a new type of legal business, for which there is some local demand. Approval, with appropriate buffers, is consistent with this goal.

Staff Recommendation

The staff recommendation is made in the absence of public testimony and may be modified prior to the close of the hearing. At this time, staff recommends:

- **Adopt Ordinance 2016-2793**, recommending that the City Council adopt the proposed Development Code amendment regarding medical marijuana grow sites, processors and dispensaries.